
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO JAVIER ROMERO-BARAJAS,

Defendant.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:13-cr-00704-2

District Judge Dale A. Kimball

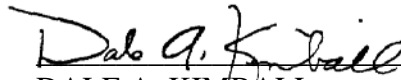
Before the court is Defendant Francisco Javier Romero-Barajas' Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2). The Defendant argues that the court should reduce his sentence because of the United States Supreme Court's decision in *Hughes v. United States*, 138 S.Ct. 1040 (2018). The United States filed a response to the Defendant's motion.

The United States Supreme Court held that so long as a sentence imposed by the District Court is "based on" the range determined under the United States Sentencing Guidelines, and the sentencing guidelines were retroactively lowered by the Sentencing Commission, a defendant is eligible for consideration of a sentencing reduction under 18 U.S.C. § 3582(c)(2).

In this case, the guideline range was calculated at Total Offense Level 33 and Criminal History III, for an advisory sentence of 168-210 months. A two-level reduction would reduce the Total Offense Level to 31 and the advisory sentence to 135-168 months. The Defendant entered into a Rule 11(c)(1)(C) plea agreement that specified a sentence of 108 months. Although the Defendant is eligible for consideration of a reduction of sentence based on *Hughes v. United States*, the court finds that a reduction is not warranted. The Defendant's sentence is still substantially lower than the subsequently lowered advisory sentencing range. Accordingly, the Defendant's motion for a reduction of sentence is DENIED. (Dkt. No. 209).

Dated this 24th day of September, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL,
United States District Judge